IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

TAX APPEAL No. 540 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE ANIL R. DAVE
HONOURABLE MR.JUSTICE Z.K.SAIYED

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ASSTT.COMMISSIONER OF INCOME TAX - Appellant(s)
Versus
PRITHVIRAJ BHOORCHAND - Opponent(s)

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Appearance :
MR BB NAIK for Appellant(s) : 1,
MR MJ SHAH for Opponent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE ANIL R. DAVE

and

HONOURABLE MR.JUSTICE Z.K.SAIYED

Date : 12/12/2007

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE ANIL R. DAVE)

1. In this appeal, the following substantial question of law had been framed by this Court at the time of admission of the appeal.

> “Whether the appellate tribunal is right in law and on facts in directing to allow deduction under Section 80I of the Income-tax Act?”

2. We have heard learned advocate Shri Bharat Naik appearing for the appellant and learned advocate Shri M.J. Shah appearing for the respondent.

3. The aforestated question, which has been involved in this appeal, is no more res integra as it has been already decided in the case of the assessee himself that the Tribunal was right in law and on fact in directing the department to allow deduction under the provisions of Section 80I of the Income-tax Act, as more than twenty persons were working under control of the assessee in the industrial undertaking of the assessee.

3. Looking to the law laid down in the case of **CIT Vs PRITHVIRAJ BHOORCHAND, [2006]280ITR94(Guj.)**, we answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

4. The appeal is dismissed with no order as to costs.

(ANIL R. DAVE, J.) (Z.K. SAIYED, J.)

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